

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**GERARD CHRISTOPHER
TCHEUMANI, JR.,**

Plaintiff,

V.

WHOLESCALE LLC, ET AL.,

Defendants.

Case No. 2:22-cv-02425-JTF-cgc

**ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION AND DISMISSING CASE**

Before the Court is Plaintiff Gerard Christopher Tcheumani, Jr.'s, pro se complaint, filed on June 28, 2022. (ECF No. 1.) Plaintiff also filed a Motion seeking leave to proceed *in forma pauperis*. (ECF No. 2). Pursuant to Administrative Order 2013-15, the Magistrate Judge was assigned to handle all pre-trial matters via order or report and recommendation as appropriate. The Magistrate Judge entered a Report and Recommendation ("R & R") on August 11, 2022, advising the Court to dismiss the complaint failure to submit a properly completed non-prisoner application to proceed *in forma pauperis* or to pay the \$400 civil filing fee. (ECF No. 7.) Plaintiff filed no objections and his opportunity to do so has passed. *See* 28 U.S.C. § 636(b)(1); LR 72.1(g)(2) (objections must be filed within fourteen (14) days after being served a copy of the R & R). For the following reasons, the R. & R. should be ADOPTED, and Plaintiff's claims DISMISSED for failure to prosecute.

Congress passed 28 U.S.C. § 636(b) “to relieve some of the burden on the federal courts by permitting the assignment of certain district court duties to magistrates.” *United States v. Curtis*, 237 F.3d 598, 602 (6th Cir. 2001). Pursuant to the provision, magistrate judges may hear and determine any pretrial matter pending before the Court, except various dispositive motions. 28 U.S.C. § 636(b)(1)(A). Upon hearing a pending matter, “the magistrate judge must enter a recommended disposition, including, if appropriate, proposed findings of fact.” Fed. R. Civ. P. 72(b)(1); *see also Baker v. Peterson*, 67 F. App’x 308, 310 (6th Cir. 2003). Any party who disagrees with a magistrate’s proposed findings and recommendation may file written objections to the report and recommendation. Fed. R. Civ. P. 72(b)(2). However, “[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b) advisory committee notes. The district court is not required to review, and indeed “should adopt[,] the findings and rulings of the Magistrate Judge to which no specific objection is filed.” *Brown v. Bd. of Educ. of Shelby Cty. Sch.*, 47 F. Supp. 3d 665, 674 (W.D. Tenn. 2014) (citing *Thomas v. Arn*, 474 U.S. 140, 149 (1985)).

Here, the Magistrate Judge found that Plaintiff’s original motion to proceed *in forma pauperis* incorrectly attached a pro se prisoner short form and was supported by an affidavit that did not provide the court with sufficient financial information with which to determine if he is unable to pay the civil filing fee. Plaintiff was initially ordered to submit the correct form, add additional information, or pay the filing fee within thirty days of the filing of his complaint, but failed to do so. The Magistrate Judge noted that Federal Rule of Civil Procedure 41(b) allows the district court to *sua sponte* dismiss a case for lack of prosecution in this situation. Plaintiff failed to file any objections to the R & R. After review of the R & R, the court finds no clear error in the Magistrate Judge’s analysis and **ADOPTS** its findings.

CONCLUSION

In the absence of any party objections and having satisfied itself that there is no clear error on the face of the record, the Court hereby **ADOPTS** the Magistrate Judge's Report and Recommendation and **DISMISSES** Plaintiff's complaint for failure to prosecute.

IT IS SO ORDERED this 29th day of August 2022.

s/John T. Fowlkes, Jr.
JOHN T. FOWLKES, JR.
United States District Judge